

**OPINION
52-46**

March 3, 1952 (OPINION)

COUNTIES

RE: Sheriffs - Candidates for Third Term

To all sheriffs and auditors:

At the last session of the legislature a resolution was passed providing that the question of the amendment of Section 173 of the Constitution of the State of North Dakota be presented for a vote of the people to decide whether or not the two term limitation on sheriffs be removed. Since the passage of this resolution many of the sheriffs have contacted this office requesting an opinion as to whether or not a sheriff who is completing his second term would legally be able to be a candidate in the June primary.

It is our opinion that a candidate for any office need not be qualified until the time of assuming the duties of the office to which he is elected. A candidate does not have to be qualified for the office in order to be a candidate at the primary. Therefore, should a sheriff who is now completing his second term of office be a successful candidate at the primary election and the constitutional amendment removing the disqualification of a sheriff from holding more than two terms be carried, he would be duly qualified at the time of the fall election and at the time of taking office, if elected. If the amendment is not approved, he could then withdraw.

In view of the widespread interest expressed not only by the county sheriffs and auditors but by individuals who desire to see that competent sheriffs now completing their second term be candidates, this office deemed it advisable to forward our opinion on this matter.

ELMO T. CHRISTIANSON

Attorney General